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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,027	05/11/2001	Abraham Yehuda Katz	Abraham KATZ	5053
1444	7590	09/10/2004	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			VINCENT, DAVID ROBERT	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary

Application No.

09/853,027

Applicant(s)

KATZ, ABRAHAM YEHUDA

Examiner

David R Vincent

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 7 and 12-18 is/are rejected.
- 7) ☒ Claim(s) 2-5 and 8-11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/20/2002</u> . | 6) <input type="checkbox"/> Other: ____. |

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Claim Objections

1. Claims 1-6 are objected to because of the following informalities: The applicant inadvertently put a period at line 15 of claim 1 and started a new sentence. Clearly this is a typographical error because claims only have one period in them. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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Claims 1, 6, 7, 12-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Shinohara (US 6,067,298).

As shown in e.g., Figs. 1-22, especially e.g., Figs. 13 and 20-22, Shinohara discloses routing packets (packets or ATM cell which are fixed length packets, e.g., Figs. 20-22 and respective disclosure; col. 13, lines 41-47) through a switch fabric (Figs. 8-22), a plurality of broadband buses (bus reads on a piece of wire or ATM connections, e.g., 50, Fig. 1; 100, Fig. 8; 40, Fig. 8; typically ATM runs over OC-3, SDH note, 155 Mbps, 100, Fig. 1 or SONET), 3-dimensional switches (using source, destination addresses and/or source and destination port numbers and VPI/VCIs, and packet types, e.g., Figs. 1, 8-22; ATM is a lower layer OSI protocol that encapsulates upper layer packets comprising source and destination addresses and packet types read on using the ATM call admission control/CAC and QoS or the more visual noted ABR, CBR, VBR, UBR traffic types/classes; types also read on using the VPI/VCI since in ATM, various packet types get various VPI/VCI connection labels), algorithm to manage bandwidth (in an ATM switch, the BW is managed to maintain the strict QoS service level agreements, also as more clearly noted, the ATM switches also manage BW based on the traffic types such as CBR, ABR, etc., Figs. 8-22; note especially the buffer supervision in Fig. 22 and respective disclosure; or see col. 6, lines 33-62; col. 8, line

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58-col. 9, line 12; or col. 10, lines 7-33), routing tables and hop by hop (ATM cells are routed based on VPI/VCIs 300, Fig. 8, 13-14, and there are also tables shown using the port numbers, 301, Figs. 11-12, 14-21 and respective disclosure), output port state machine (outputting cells based on the CAC and service agreements, or traffic types, and VPI/VCIs), concentrator (e.g., 109), storage device and encoding program (switches are run by microprocessors or micro-controllers with stored programs), encapsulating prior (as noted ATM is an OSI lower layer protocol and the upper layer packets or protocol data units are passed down through the ATM adaptation layers into the various ATM cells), switch has numeric ID (Figs 8-21), isochronous (e.g., UBR, Figs. 8-21) and asynchronous (e.g., CBR or ABR data, Figs. 8-21), output memory organization (the output buffers are tightly controlled, see e.g., Fig. 22 and respective disclosure).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinohara, as set forth above in view of Lee (US 2003/0217220) and Lee (US 6,542,506).

However, Shinohara fails to clearly equate isochronous data to UBR data and asynchronous data to CBR data or mention using the 1394 buses.

Lee clearly equates isochronous data to UBR data and asynchronous data to CBR data (e.g., Fig. 14 and respective disclosure, e.g. section 60) and using the 1394 buses (sections 1-73, especially section 70-73).

Since Lee (US 2003/0217220) does not make it very clear that Lee's invention will run 1394 data over ATM switches but may only make it possible to equate the two protocols and their data, the examiner has included Lee (US 6,542,506) as a reason to combine. Lee '506 clearly runs 1394 data over ATM switches (see Figs. 1-6, especially Fig. 6 and respective disclosure). Therefore it would have been obvious to combine Lee '220 with Shinohara for the reason that ATM is a very popular high-speed protocol which uses CAC and allows for service level guarantees and allows for various types of data to run over the same fiber optic cable (e.g., SDH).

4. Claims 2-5, 8-11, are objected to as being dependent upon a rejected base claim (and claim 1 is not one complete sentence but


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two), but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R Vincent whose telephone number is 703 305 4957. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas Olms can be reached on 703 305 4703. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David R Vincent
Primary Examiner

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